

Foreign-Trade Zones Board, Commerce

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(b) Materials, components and finished products associated with the proposed activity, including the tariff schedule categories (6-digit HTSUS) and tariff rates; and

(c) Information as to whether any material or component is subject to a trade-related measure or proceeding (e.g., AD/CVD order or proceeding, suspension of liquidation under AD/CVD procedures).

EFFECTIVE DATE NOTE: At 77 FR 12139, Feb. 28, 2012, § 400.22 was added. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 400.23 Application for production authority.

In addition to any applicable requirements set forth in § 400.21, an application requesting production authority pursuant to § 400.37(c) shall include:

(a) A summary as to the reasons for the application and an explanation of its anticipated economic effects;

(b) Identity of the user and its corporate affiliation;

(c) A description of the proposed activity, including:

(1) Finished products;

(2) Imported (foreign-status) materials and components;

(3) For each finished product and imported material or component, the tariff schedule category (6-digit HTSUS), tariff rate, and whether the material or component is subject to a trade-related measure or proceeding (e.g., AD/CVD order or proceeding, suspension of liquidation under AD/CVD procedures);

(4) Domestic inputs, foreign inputs, and plant value added as percentages of finished product value;

(5) Projected shipments to domestic market and export market (percentages);

(6) Estimated total or range of annual value of benefits to proposed user (broken down by category), including as a percent of finished product value;

(7) Annual production capacity (current and planned) for the proposed FTZ activity, in units;

(8) Information to assist the Board in making a determination under §§ 400.27(a)(3) and 400.27(b);

(9) Information as to whether alternative procedures have been considered as a means of obtaining the benefits sought;

(10) Information on the industry involved and extent of international competition; and

(11) Economic impact of the operation on the area; and

(d) Any additional information requested by the Board or the Executive Secretary in order to conduct the review.

EFFECTIVE DATE NOTE: At 77 FR 12139, Feb. 28, 2012, § 400.23 was added. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 400.24 Application for expansion or other modification to zone.

(a) *In general.* (1) A grantee may apply to the Board for authority to expand or otherwise modify its zone (including pursuant to the ASF procedures adopted by the Board; see 74 FR 1170, Jan. 12, 2009, 74 FR 3987, Jan. 22, 2009, and 75 FR 71069, Nov. 22, 2010).

(2) The Executive Secretary, in consultation with CBP as appropriate, shall determine whether the proposed modification involves a major change in the zone plan and is thus subject to paragraph (b) of this section, or is minor and subject to paragraph (c) of this section. In making this determination the Executive Secretary shall consider the extent to which the proposed modification would:

(i) Substantially modify the plan originally approved by the Board; or

(ii) Expand the physical dimensions of the approved zone area as they relate to the scope of operations envisioned in the original plan.

(b) *Major modification to zone.* An application for a major modification of an approved zone shall be submitted in accordance with the requirements of § 400.21, except that the content submitted pursuant to § 400.21(d)(4) (economic justification) shall relate specifically to the proposed change.

(c) *Minor modification to zone.* Other applications or requests under this subpart shall be submitted in letter form with information and documentation necessary for analysis, as determined

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by the Executive Secretary, who shall determine whether the proposed change is a minor one subject to this paragraph (c) instead of paragraph (b) of this section (see § 400.38). Such applications or requests include those for minor revisions of general-purpose zone or subzone boundaries based on immediate need, as well as for designation as a subzone of all or part of an existing zone site(s) (or site(s) that qualifies for usage-driven status), where warranted by the circumstances and so long as the subzone activity remains subject to the activation limit (see § 400.2(b)) for the zone in question.

(d) *Applications for other revisions to authority.* Applications or requests for other revisions to authority, such as for Board action to establish or modify an activation limit for a zone, modification of a restriction or reissuance of a grant of authority, shall be submitted in letter form with information and documentation necessary for analysis, as determined by the Executive Secretary. If the change involves the removal or significant modification of a restriction included by the Board in its approval of authority or the reissuance of a grant of authority, the review procedures of §§ 400.31–400.34 and 400.36 shall be followed, where relevant. If not, the procedure set forth in § 400.38 shall generally apply (although the Executive Secretary may elect to follow the procedures of §§ 400.31–400.34 and 400.36 when warranted).

§ 400.25 Application for subzone designation.

In addition to the requirements of §§ 400.21(d)(1)(i) and (ii) pertaining to legal authority, § 400.21(d)(2)(vii) pertaining to environmental aspects of the proposal, and §§ 400.21(d)(3)(i) and (iii) pertaining to operation, a grantee's application for subzone designation shall contain the following information:

- (a) The name of the operator/user for which subzone designation is sought;
- (b) The nature of the activity at the proposed subzone;
- (c) The address(es) and physical size (acreage or square feet) of the proposed subzone location(s); and
- (d) One or more maps conforming to the requirements of section § 400.21(d)(5)(ii). For any production ac-

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tivity to be conducted at a proposed subzone, the separate requirements of § 400.14(a) must be met.

EFFECTIVE DATE NOTE: At 77 FR 12139, Feb. 28, 2012, § 400.25 was added. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 400.26 Criteria for evaluation of applications for expansions, subzones or other modifications of zones.

The Board shall consider the following factors in determining whether to approve an application pertaining to a zone:

- (a) The need for zone services in the port of entry area, taking into account existing as well as projected international trade-related activities and employment impact;
- (b) The suitability of each proposed site and its facilities based on the plans presented for the site, including existing and planned buildings, zone-related activities, and the timeframe for development of the site;
- (c) The specific need and justification for each proposed site, taking into account existing sites and/or other proposed sites;
- (d) The extent of state and local government support, as indicated by the compatibility of the zone project with the community's master plan or stated goals for economic development and the views of state and local public officials involved in economic development. Such officials shall avoid commitments that anticipate the outcome of Board decisions;
- (e) The views of persons likely to be materially affected by proposed zone activity; and
- (f) If the application involves production activity, the criteria in § 400.27.

§ 400.27 Criteria applicable to evaluation of applications for production authority.

The Board shall apply the criteria set forth in this section in determining whether to approve an application for authority to conduct production activity pursuant to § 400.23. The Board's evaluation shall take into account such factors as market conditions, price sensitivity, degree and nature of foreign competition, intra-industry and